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10/010,993	11/12/2001	Gerard Alan Lynch	20228-200501	6492

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EXAMINER

NGUYEN, CUONG H

ART UNIT PAPER NUMBER

3661

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/010,993

Applicant(s)

LYNCH, GERARD ALAN

Examiner

CUONG H. NGUYEN

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/07/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

#### DETAILED ACTION

1. This Office Action is the answer to the communication received on 9/07/2004 (the Response under 37 CFR 1.111).

#### Status of the Claims

2. Claims 1- 10 are pending in this application.

#### Response:

3. The arguments are unpersuasive because in currently amended claim 1, what "the main program" can do is considered as "non-functional descriptive material" that does not contribute anything to claimed "method of delivering" auction items (the claimed meanings "in an auction environment" do not change a method of delivering selectable images (it would also happen in different environment for distributing selectable images). In other words, cited prior art of Ginter et al. and Nakano et al. could perform claimed functions of claimed "a main program" - the cited references obviously suggest a program that handles claimed functions. Since cited references read-on the claimed languages, the examiner respectfully submits that previous rationales for rejections are repeated herein.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

- (a) *A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention*

*was made to a person having ordinary skill in the art to which said subject matter pertains.  
Patentability shall not be negated by the manner in which the invention was made.*

4. Claims 1-3, 6-10 are rejected under 35 U.S.C. § 103(a)

as being unpatentable over Ginter et al. (US Pat.

6,427,140), in view of Nakano et al. (US Pat. 5,745,109).

A. As to claim 1: Ginter et al. teach a method of delivering items (see **Ginter**, Fig.2), comprising:

- receiving, a request from client browser for a program (see **Ginter**, Fig.2, a user (112) requests to VDE administrator (116)); and delivering the program to the requesting client browser (see **Ginter**, Fig.2, ref. 108), the program being configured to receive seller specific information (this is non-functional descriptive material; therefore, this specific information is obvious in a step of receiving a program in **Ginter's** patent), and to load and activate a module including a picture displaying module for displaying selectable images, the picture displaying module being configured to moveably display - see also **Nakano** et al., 4:10-18), or **Ginter** et al., in the Detailed Description Text portion (para. 856): "Other modifications of an image (or moving image, audio, etc.) which provide a similar benefit (that is, storing information in a form that is not normally noticeable as a result of a certain modification of the source information) may be appropriate, depending on the application. For example, certain subtle modifications in the frequency of stored audio information can be modified so as to be normally unnoticeable to

the listener while still being readable with the proper tools.", or **Ginter et al.**, in the Detailed Description Text portion (para. 1220): "The content of an object 300 created by an author may be generated with the assistance of a VDE aware application program or a non-VDE aware application program. The content of the object created by an author in conjunction with such programs may include text, formatted text, pictures, moving pictures, sounds, computer software, multimedia, electronic games, electronic training materials, various types of files, and so on, without limitation", and "to redirect" action of **Ginter et al.**, in the Detailed Description Text portion (para. 170):

"FIG. 10 is a block diagram of one example of a software structure/architecture for Rights Operating System ("ROS") 602 provided by the preferred embodiment. In this example, ROS 602 includes an operating system ("OS") "core" 679, a user Application Program Interface ("API") 682, a "redirector" 684, an "intercept" 692, a User Notification/Exception Interface 686, and a file system 687. ROS 602 in this example also includes one or more Host Event Processing Environments ("HPEs") 655 and/or one or more Secure Event Processing Environments ("SPEs") 503 (these environments may be generically referred to as "Protected Processing Environments" 650).", or **Ginter et al.**, in the Detailed Description Text portion (para. 188):

"Since the second advantage (reducing complexity) makes it easier for an application creator to produce applications, even "VDE aware" applications 608a(2) may be designed so that some calls invoking VDE functions 604 are requested at the level of an "other OS functions" call and then "translated" by redirector 684 into a VDE function call (in this sense, redirector 684 may be considered a part of API 682). FIG. 11C shows an example of this. Other calls invoking VDE functions 604 may be passed directly without translation by redirector 684."

- Nakano et al. also teach to browse an item/document associated with a selected image (see Nakano et al., Fig.7, ref. 113 - "GAME ARCADE").

Both Ginter et al. and Nakano et al. do not disclose the claimed steps in an auction environment; however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Ginter et al. and Nakano to suggest those ideas to be used in an auction environment, because an auction environment is merely an intent of use, this does not effect the steps of delivering selectable images to a browser at all; artisan would recognize that these steps help to organize a server that implementing Internet ordering claimed specific method of selecting and ordering products.

B. As to claims 2-3: The rationales and references for rejection of claim 1 are incorporated.

- Ginter et al. /Nakano et al. also teach a step of receiving a request about an item description (see **Ginter**, Fig.2, a user (112) requests a VDE content from VDE administrator (116)).

- The motivation of obviousness is similar to claim 1 (please note that "an auction site" is a non-functional description material that do not effect a step of receiving something from somewhere.

C. As to claims 6, 8: The rationales and references for rejection of claim 1 are incorporated.

Nakano also teaches that a program is configured to load and activate a item links module that maintains a set of item links for a category in the set of categories available on a site (see Nakano, Fig.5 - "PHONE" in ref. 112 is selected to perform claimed functions).

D. As to claims 7, 9: The rationales and references for rejection of claim 6 are incorporated.

It is obvious that Nakano et al. would teach that a set of item links available on a site is stored from an auxiliary server because of making separated or integrate together different servers are obvious in the field of computer networking (see Nakano, Fig.12) - storing an item from a remote place (an auxiliary server) or storing it on site is not an inventive concept because it would be merely a matter of obvious engineering choice - In re Fridolph, 50 CCPA 745, 89 F.2d 509, 135 USPQ 319, In re Lockhart, 90 USPQ 214 (CCPA 1951).

E. As to claim 10: The rationales and references for rejection of claim 9 are incorporated.

Nakano et al. teach that an item link includes a related name (see Nakano, Fig.12 "KID'S LAND" - this meaningful name let a user know that this site comprises items for kids).

5. Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ginter et al. (US Pat. 6,427,140), in view of Nakano et al. (US Pat. 5,745,109), and further in view of Kiesel (US Pat. 4,949,193).

The rationales and references for rejection of claim 1 are incorporated.

- Ginter et al. and Nakano et al. do not expressly disclose of displaying a picture at different speeds.
- However, Kiesel teaches that characterization (see Kiesel, 10:28-33).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Ginter et al., Nakano et al., and Kiesel to suggest a step of displaying a picture at different speed (e.g., moveably display pictures at a controllable speed; and wherein the controllable speed is set by a pointing device connected to the client computer system) because Kiesel contributes to a controllable speed that making a system suggested by Ginter et al. and Nakano et al. more flexible.

6. Claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ginter et al. (US Pat. 6,427,140), in view of Nakano et al. (US Pat. 5,745,109), and further in view of Izumi et al. (US Pat. 6,157,410).

The rationales and references for rejection of claim 1 are incorporated.



- Ginter et al. and Nakano et al. do not expressly disclose that moving images are displayed horizontally in a computer's window.

However, Izumi et al. teach that moving images are displayed horizontally in a computer's window (see Izumi et al., the abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Ginter et al., Nakano et al., and Izumi et al. to suggest a step of moving images are displayed horizontally in a computer's window because moving images horizontally (from left to right directions) or vertically (from top to bottom directions) have already been a habit to a viewer to follow an ordered pattern.

#### **Conclusion**

7. Claims 1-10 are not patentable. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened

statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Note: A move-able image/picture has been taught in bill-board advertisement.

- Please note that claiming an "auction item" is obvious for a general item because that is a non-functional descriptive material that does not contribute to the claimed method of delivering images.

- US Pat 6,400,996 also suggests about "movable images" In Detailed Description Text portion (para. 302):

" *Image Analysis*"

In Detailed Description Text portion (para. 303):

"Alternatively to the object extraction, the *image* as a whole may be analyzed. In the case of *moving images*, the aforementioned method is further modified to accommodate time varying *images*. These *images* usually vary by small amounts between frames, and this allows a statistical improvement of the recognition function by compensating for a *movement* vector, as well as any other transformation of the *image*. This also allows a minimization of the processing necessary because redundant information between successive frames is not subject to the full degree of processing. Of course, if the *image* is substantially changed, then the statistical processing ceases, and a new recognition function may be begun, "flushing" the system of the old values. The basic method is thus modified by storing delayed *image* data information, i.e., a subsequent frame of a *moving image*. This represents an *image of a moving object* differing in time from the *image* data in the data processor."

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 703-305-4553. The examiner can normally be reached on 7am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THOMAS G. BLACK can be reached on 703-305-8233. The fax phone number for the organization where this application is assigned is 703-305-7687.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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